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ENROLLED BILL ANALYSIS

BILL NUMBER: Senate Bill 721 and 722

TOPIC: Senate Bill 721 Creates the Plastic Bulk Merchandise Container Act
Senate Bill 722 amends the Code of Criminal Procedure to prescribe misdemeanor penalty for violation of the Act.

SPONSOR: Senators Jones and Senator Marleau

CO-SPONSORS: Senators Bieda, Emmons and Schuitmaker

COMMITTEE: Senate Regulatory Reform
House Commerce

ANALYSIS COMPLETED: June 12, 2012

ADMINISTRATION POSITION: The Administration is neutral on the bills.

PROBLEM/BACKGROUND

A problem has developed with the theft of plastic bulk merchandise containers, such as those used by soft drink and bread manufacturers and distributors. People are stealing the merchandise containers and selling them to plastics recyclers or grinders, costing manufacturers and distributors millions of dollars per year.

DESCRIPTION OF BILL

Senate Bill 721 and Senate Bill 722 are tie-barred and designed to deter the theft of plastic bulk merchandise containers.

Senate Bill 721 would create the "Plastic Bulk Merchandise Container Act" and specifies requirements for a sale of 10 or more plastic bulk merchandise containers, in addition to the following requirements:

- Require persons who take these materials to sell at a plastics recycling/grinding shop, be at least 16 years old.
- Provide identification, and attest to ownership of the containers.
- Requires a dealer to keep a record of each purchase of 10 or more plastic bulk merchandise containers in a single transaction.
- Require a dealer to tag and hold a plastic bulk merchandise container under certain circumstances.
- Prescribe misdemeanor penalty for a violation of the purchasing or selling of the containers of up to 5 years in jail and/or a maximum fine of \$5,000 for the first offense and \$10,000 for every subsequent offense.
- Provide civil remedy for a violation under the Act.

Senate Bill 722 would amend the Code of Criminal Procedures to include the felony provisions proposed in Senate Bill 721 in the sentencing guidelines.

SUMMARY OF ARGUMENTS

Pro

Senate Bill 721 and 722 are designed to deter the theft of plastic bulk merchandise containers by requiring persons who take these materials to sell at a plastics recycling/grinding shop to provide identification and attest to ownership of the containers. By increasing recording keeping and reporting requirements as well as imposing strict criminal penalties and civil remedies, these bills will help combat the widespread theft problem.

Con

Increasing record keeping and reporting requirements by dealers could result in additional time and cost to meet the requirements.

FISCAL/ECONOMIC IMPACT

Are there revenue or budgetary implications in the bill to the –

- (a) Department:** There are no budgetary implications for LARA.
- (b) State:** The State could incur costs of felony probation and incarceration in a State facility.
- (c) Local Government:** The locals could incur costs of incarceration in local facilities, which vary by county.

OTHER STATE DEPARTMENTS

N/A

ANY OTHER PERTINENT INFORMATION

This legislation is patterned after similar legislation signed into law during the 2007-08 session of the Michigan Legislature which targeted the theft of copper and other nonferrous metals.

There has been similar legislation enacted in Texas, Arizona, and introduced in Ohio and Wisconsin. Texas statute has now been on the books for more than a year and their theft problems have been significantly diminished.

ADMINISTRATIVE RULES IMPACT

None